

JUL 26 2006

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

FILEMON ROJO-GALEANA,

Defendant - Appellant.

No. 05-10076

D.C. No. CR-04-00924-1-JAT

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Arizona
James A. Teilborg, District Judge, Presiding

Submitted July 24, 2006^{**}

Before: ALARCÓN, HAWKINS, and THOMAS, Circuit Judges.

Filemon Rojo-Galeana appeals from his guilty-plea conviction and 60-month sentence imposed for illegal re-entry into the United States following deportation, in violation of 8 U.S.C. § 1326(a). Rojo-Galeana's attorney has

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

moved to withdraw pursuant to *Anders v. California*, 386 U.S. 738 (1967), on the ground that the appeal presents no arguable issues. Rojo-Galeana has not submitted a pro se supplemental brief.

Because our independent review of the record pursuant to *Penon v. Ohio*, 488 U.S. 75, 82-83 (1988), indicates that Rojo-Galeana knowingly and voluntarily waived his right to appeal and was sentenced within the terms of the plea agreement, we enforce the waiver and dismiss the appeal. *See United States v. Nguyen*, 235 F.3d 1179, 1182 (9th Cir. 2000) (stating that an appeal waiver is valid when it is entered knowingly and voluntarily); *see also United States v. Cardenas*, 405 F.3d 1046, 1048 (9th Cir. 2005) (noting that the changes in sentencing law imposed by *United States v. Booker*, 543 U.S. 220 (2005), did not render waiver of appeal involuntary and unknowing).

Counsel's motion to withdraw is **GRANTED**, and the appeal is **DISMISSED**.